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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/577,922	Q5/24/2000	Toru Mineyama	450100-02515	4471

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EXAMINER

HOYE, MICHAEL W

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 06/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/577,922

Applicant(s)

MINEYAMA, TORU

Examiner

Michael W. Hoye

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to because element 109 in Figure 1 should be labeled -- AUDIO PROCESSING SECTION--. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: on page 14, line 5, "blocks 201 to 203" appears to be a typographical error in the specification (referring to blocks 1 to 3), however, the reference signs are not included in Figure 2 either. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.
4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
5. The disclosure is objected to because of the following informalities:
 - On page 14, line 5, "201 to 203" appears to be a typographical error and should be --1 to 3--.

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- On page 15, line 2, “FIGS. 10 to 13” should be --10A to 10D--.
- On page 15, line 6, “FIG. 10” should be --10A--.
- On page 15, line 17, “FIG. 14” should be --11--.
- On page 16, lines 4-5, “FIG. 11” should be --10B--.
- On page 18, line 6, “ST36” should be --ST40--.
- On page 19, line 7, “FIG. 12” should be --10C--.
- On page 20, lines 9 & 21, “ST52” should be --ST56--.
- On page 21, line 12, “FIG. 11” should be --10B--.
- On page 21, line 21, “FIG. 13” should be --10D--.
- On page 22, line 22 and page 23, line 10 “ST72” should be --ST76--.
- On page 24, line 15, “FIG. 16” should be --13--.
- On page 24, line 19, “FIG. 15” should be --12--.
- On page 25, line 20 and page 26, line 4, “FIGS. 10 to 13” should be --10A to 10D--.

Appropriate correction is required.

Claim Objections

6. Claim 4 is objected to because of the following informalities: the word “profiled” in line 1 of the claim should be --profile--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

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7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4, and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Herz et al (USPN 5,758,257), cited by the examiner.

As to claim 1, note the Herz et al reference which discloses a receiver that receives broadcasts and program information. The Herz et al reference, hereafter referred to as Herz, discloses the claimed “receiving means for selecting a predetermined real channel from a plurality of real channels and obtaining a broadcast signal...” as shown within the set top multimedia terminal 620, as tuner 1002, (see Fig. 10, also see Fig. 9, channel selector 912). The claimed “program information extracting means” is met by data receiver 1004 in Fig. 10 (also see Fig. 9, available/authorized program list 902), where the data receiver extracts the program information from the plurality of real channels in the broadcast signal and sends the program information to microprocessor 1005 (or processor 906 in Fig. 9). The claimed “user profile creating means” is met by the microprocessor 1006 and memory 1012 in Fig. 10 (and/or agreement matrix 906, time of day/mood indicator 910, and processor 906 in Fig. 9), where a user profile may be established by the viewer entering various conditions (col. 4, line 18 – col. 5, line 18 and col. 46, lines 43-61), in addition, a “user profile” may be developed from the program information that has been stored from the user’s viewing history/habits or programs actually watched by the user (col. 6, lines 35-59 and col. 46, lines 43-61, also see col. 40, line 32 – col. 41, line 14). The claimed user profile in which program information received at every

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time unit of a day is accumulated as user profile information is met by the user's viewing history/habits, which inherently accumulates program information at every time unit (also see col. 22, lines 22-23 – referring to time slots). The claimed “virtual channel creating means...” is met by processor 906 in Fig. 9 (see col. 45, lines 34-55) and/or microprocessor 1006 in Fig 10 (see col. 46, lines 43-59) which creates a designated number of “virtual” channels for the customer's consideration at any given time based on the agreement matrix or viewing history/habits or “user profile” and are presented to the user on the customer's television screen.

As to claim 2, the claimed display means for displaying said virtual channel created by said virtual channel creating means is met by the TV as disclosed in Figs. 9 and 10 and a program guide that displays the “virtual” channel information which may be selected by the user is sent to the TV (col. 45, lines 36-55 and col. 46, lines 54-61).

As to claim 3, the claimed time zone setting means for setting a time zone in which said virtual channel is created is met by the time of day settings received from the head end or as input by the customer and stored in memory (see col. 45, lines 24-30 and col. 45, line 56 – col. 46, line 2).

As to claim 4, the claimed said user profile creating means creates a user profile of every predetermined period and constantly holds user profiles of a constant number is met by a constant which can vary in accordance with the desired accuracy for the profiles (see col. 6, lines 56-59 and col. 7, lines 6-35).

As to claim 6, the claimed said user profile accumulates at least a title is met by the content profiles with the various program titles as shown in col. 21, lines 1-29, the claimed

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accumulating a category is met by col. 4, lines 59-67, and the claimed accumulating a key word is met by col. 13, lines 10-11.

As to claim 7, the claimed virtual channel creating means uses user profiles located ahead of and behind said predetermined unit time if user profile information corresponding to said predetermined unit time is not accumulated then when a program of said real channel corresponding to a predetermined unit time is selected is met by the inherency of the customer profiles that are created and updated in the set top multimedia terminal of Herz. In the Herz reference, if a customer profile has not been determined for a particular time of day, the customer profile may be developed using other relevance feedback techniques, such as initial customer preference profiles, other programs viewed in accordance with time of day, time of the week, and/or customer mood, and various other characteristics may be used as well from the customer's preferences for viewing programs and viewing history (see col. 4, lines 22 – col. 5, line 13, col. 25, line 65 – col. 26, line 8, and col. 26, lines 40-57).

As to claim 8, the claimed priority program setting means for setting a priority program is met by acceptable ranges or by ratings with a scale of 10 in which 10 means the greatest satisfaction (see col. 12, lines 14-25), and the claimed virtual channel creating means selects said priority program set by said priority program setting means when a program of said real channel corresponding to a predetermined unit time is selected is met by the “virtual channels” created from the stored customer profiles including the characteristics and weighted values (col. 45, lines 34-55, also see col. 4, lines 53-58).

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As to claim 9, the claimed virtual channel creating means creates a plurality of virtual channels is met by the "virtual channels" created (see col. 45, lines 34-36 and col. 46, lines 50-54).

As to claim 10, the claimed channel control means for controlling the manner in which said receiving means receives said real channel in such a manner that programs comprising said virtual channel created by said virtual channel creating means are received sequentially is met by the set top terminal creating a "virtual channel" which if selected by the user will display the most preferred video program on the user's television during the current time frame, after the program has completed the virtual channel will remain on the same channel or tune to a different channel based on the best match to the customer's profile, so the programs are received sequentially on the "virtual channel" and preferably the viewer will not have to change channels or "channel surf" at all or very frequently since the programs are received sequentially (see col. 3, lines 3-16, col. 4, lines 41-43 and 53-58, and col. 45, lines 43-49).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al (5,758,257), in view of Hodge et al (USPN 6,564,381), both cited by the examiner.

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As to claim 5, the Herz et al reference discloses a receiver wherein said user profile creating means creates a weekday user profile from a viewing history of programs viewed on weekdays or “time of the week” (see col. 4, lines 53-63, col. 5, lines 23-33, and col. 45, lines 24-27). The Herz et al reference does not explicitly disclose creating a holiday user profile from a viewing history of programs viewed on holidays. The Hodge et al reference discloses the use of holiday profiles (see col. 7, line 1 – col. 8, line 6 and col. 9, lines 22-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the receiver that creates a weekday user profile as disclosed by Herz et al with the holiday user profile as taught by Hodge et al. One of ordinary skill in the art would have been led to make such a modification since the additional use of a holiday user profile for creating “virtual” channels would be beneficial for users who are likely to view specific programs or movies that occur on holidays.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Arai et al (USPN 6,486,920 B2) – Discloses a method and apparatus for producing program information and a receiving apparatus for processing the program information, which further includes a program guide display section with a personal channel(s).

Yamada, Koichi (USPN 6,542,514 B1) – Discloses a broadcast communication system and broadcast communication method, which further includes weekday and holiday information.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoyer whose telephone number is (703) 305-6954.

The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (703) 305-4795.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231


or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Michael W. Hoyer
May 29, 2003


JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600